

Division of the State Architect Advisory Board

Final Minutes of Quarterly Meeting

Tuesday, January 18, 2005

9:30 a.m. to 3:30 p.m.

California Community Colleges Building
1102 Q Street, Third Floor, Rooms 3B and 3C
Sacramento, California

DSA Advisory Board Members Present

Lowell Shields, Chair
Art Ross, Vice Chair
Gale Bate
Paul Beyl, Jr.
David Clinchy
Robert Dyson
Stephanie Gonos
Kennith Hall
Charles Higuera
JoAnn Koplin
Mike Modugno
Richard "Pete" Peterson
Dennis Shallenberger
Thomas Shih
David Smith

State Agency Representatives Present

Henry Reyes, Seismic Safety Commission
Lisa Sakamoto, State Fire Marshal's Office
Chris Wills, California Geological Survey

Board Members Absent

Kerry Clegg
Ed Darden
Richard Henry
John Paul Scott
Jim Ward

DSA Staff Present

Mary Ann Aguayo, Exec. Dir., DSA AB
Robin Baker, Administrative Deputy
Richard Conrad, Acting State Architect
Susan Georgis
Dan Levernier
Michael Mankin
Aaron Noble
Elizabeth Randolph
Howard "Chip" Smith
John Vester

Others Present

Carol Bradley, *
Dan Burgoyne, DGS
Kurt Cooknick, AIA California Council
Alex Dobrin, CA Pipe Trades Council
Richard Drury, CA Pipe Trades
Don Harris, OSHPD
Patti Heerhartz
Thomas Pate, CA Urban Water
Conservation Council
Robert Sayner, architect*
Greg Seahart, Thomas Properties
Group
Jay Troger, * Water-Free Technologies
*, Assemblywoman Goldberg's Office

Call to Order and Introductions

DSA Advisory Board Chair Lowell Shields called the meeting to order at 9:30 a.m. He introduced and welcomed Mr. Dave Clinchy, new member of the Board representing the California Community Colleges. He also welcomed former DSA Advisory Board Executive Director Patti Heerhartz to the meeting.

Acting State Architect Richard Conrad introduced Ms. Robin Baker, Administrative Deputy.

Participants took turns introducing themselves.

1 Ms. Susan Georgis noted the telephone number listed on the agenda for people to call
2 and confirm the meeting was incorrect. She apologized for the error and said the
3 number will be corrected.

4
5 Mr. Shields proposed moving the State Architect's Report earlier in the agenda to
6 accommodate Mr. Conrad's schedule.

7
8 **DSA Advisory Board Quarterly Meeting Report**

9 **Approval of Minutes, October 8, 2004**

10 Mr. Shields drew attention to the report of the last quarterly meeting under Tab 1 of the
11 meeting packet and welcomed comments.

12
13 **Mr. Paul Beyl made a motion, seconded by Ms. Stephanie Gonos, to approve the**
14 **report of the October quarterly meeting. Without objection, the Board accepted**
15 **the meeting report of the October quarterly meeting as presented.**

16
17 **Policies and Procedures Committee Report**

18 **December 14, 2004**

19 Committee Chair Lowell Shields noted the minutes of the December 14 committee
20 meeting were available as a handout. He said the staff has begun tracking action items
21 and follow-up items.

22
23 Mr. Shields explained that the Policies and Procedures Committee meets on an as-
24 needed basis. He commended Mr. John Vester for his work in revising the Board's
25 policies and procedures document. He drew attention to the red-lined version showing
26 the changes discussed and approved by the committee.

27
28 Mr. Shields reported that the Policies and Procedures Committee discussed the
29 makeup of the Board's committees and decided to reduce the Universal Design
30 Committee's membership from 14 to 13. He noted the committee also discussed task
31 groups and established some basic rules and parameters. Mr. Shields said the
32 Universal Design Committee established two task groups, and a third is being
33 proposed. The Policies and Procedures Committee agreed that all committees should
34 have the ability to form task groups on specific issues, with approval by the Board.

35
36 Mr. Shields noted the committee discussed adding a Community Colleges
37 representative and a charter school representative to the Board. After considerable
38 debate, the committee decided not to recommend addition of a charter school member,
39 but agreed that people representing charter schools can be invited to attend Board
40 meetings.

41
42 Mr. Shields reported that the Policies and Procedures Committee talked about revisions
43 to the appeal process; however, because of the pending appeal, no changes were
44 made. He noted that once that matter is resolved, the Policies and Procedures
45 Committee will meet in the next quarter to discuss specific revisions.

46
47 Mr. Ken Hall suggested asking the members of the appeal committee for their feedback,
48 and Mr. Shields agreed their input would be helpful.

49
50 Mr. Shields noted that at the last quarterly meeting, the Board talked about the need to
51 establish a Community College Committee. He suggested that the Policies and
52 Procedures Committee consider this at the next meeting, along with reactivation of the

1 DSA Academy.

2
3 Ms. Gonos asked if approving the committee's meeting minutes included approval of
4 the committee's recommendations as well. Mr. Shields confirmed that the committee
5 was seeking approval of its recommendations.

6
7 Ms. Gonos noted the minutes indicate the narrative description of the appeal process
8 would be removed from the Website when the current appeal was resolved, and she
9 asked if there would still be an appeal process in place. Mr. Shields responded that the
10 appeal process would remain in place. He said there seems to be general consensus
11 that the appeal process has been useful in vetting specific issues, although it has not
12 been used for its intended purpose. He noted DSA wanted an opportunity to reconsider
13 and refine the process before republishing information on the Website.

14
15 Ms. Gonos pointed out that the purpose of the appeal process, as reflected in the
16 minutes, is to allow DSA stakeholders a chance to challenge decisions made by plan
17 reviewers. She urged DSA to continue offering the appeal process to provide that
18 avenue. Mr. Shields stated that nothing will be changed without the Board's approval.

19
20 Mr. Pete Peterson drew attention to Page 3 of 20 in the revised policies and procedures
21 document. He recommended changing Line 20 to include representatives of advocacy
22 organizations. Ms. Mary Ann Aguayo explained that the language was taken directly
23 from the regulations.

24
25 Mr. Hall suggested changing the word "personnel" to "representative," and other Board
26 members agreed.

27
28 **Mr. Bob Dyson made a motion, seconded by Mr. Dennis Shallenberger, to accept**
29 **the report of the Policies and Procedures Committee as amended.**

30
31 Ms. Aguayo said she had a couple revisions to the policies and procedures document.
32 In Line 9 on Page 1 of 20, she proposed using "act" rather than "serve," consistent with
33 the language in the regulations; she recommended deleting the word "working" from
34 Line 11 on page 2.

35
36 Mr. Art Ross suggested inserting "membership and" before the word "committees" in
37 Line 11 on Page 2.

38
39 Mr. Gale Bate recommended deleting the word "physically" from Line 17 on Page 2.

40
41 The maker and seconder of the motion accepted these changes.

42
43 **Without objection, the amended motion was unanimously approved.**

44
45 **Safety and Emergency Response Committee Meeting Report**
46 **December 1, 2004**

47 Committee Chair JoAnn Koplin reported that representatives from the Red Cross and
48 L.A. USD Facilities Department have joined the committee and provided valuable input.
49 She said that at the last meeting, the committee reviewed Administrative Order 03-03,
50 clarifying the roles and responsibilities of the State Architect in inspecting schools after
51 a major earthquake. She noted that although the order indicates DSA will participate in

1 assessing building safety, it does not specifically give DSA tagging authority, so the
2 committee will continue to discuss this issue.

3
4 Ms. Koplin said Mr. Tony Ferrara of OES provided the committee with an update on the
5 status of DSA's emergency plan and answered a number of questions. The committee
6 will be reviewing drafts of the plan as they become available. Ms. Koplin noted the
7 committee is particularly interested in sheltering facilities and pre-evaluation of school
8 facilities to designate buildings suitable for use as shelters.

9
10 Ms. Koplin stated that DSA currently lacks the resources to conduct pre-disaster
11 evaluations, so the committee will be looking at assisting by developing guidelines that
12 DSA can share with local jurisdictions so they can conduct appropriate evaluations.

13
14 Ms. Koplin reported that the committee approved a motion to recommend that DSA
15 initiate correspondence with OES regarding the relationship of school districts' safety
16 plans with safety plans developed by their municipalities or local jurisdictions. She said
17 the committee learned that relationships between agencies are sometimes vague and
18 unclear, and the result is some confusion about respective roles and responsibilities.
19 Ms. Koplin noted the committee plans to invite representatives of local fire and police
20 departments to discuss this issue in more detail and offer suggestions at future
21 meetings.

22
23 Ms. Koplin said the staff compiled a list of DSA documents pertaining to safety and
24 emergency response, and the committee recommends that the Board review selected
25 items. She noted the specific items were not mentioned in the minutes; she asked the
26 staff to go back and listen to the meeting tapes for clarification.

27
28 Mr. Hall commented that DSA had already prepared a number of items the committee
29 was considering, so it would be prudent to review those materials in order to avoid
30 duplicating their efforts. Ms. Koplin said the committee was particularly interested in an
31 OES document that provided guidelines for sheltering and evaluation of buildings for
32 use as shelters. Mr. Ross offered to provide the name and phone number of a contact
33 person at OES.

34
35 Ms. Koplin reported that the committee looked at a number of other issues, including
36 working with CDE to review guidelines for emergency plans for schools, contents and
37 maintenance of emergency bins, and policies for siting bins. She said that for the
38 future, in addition to these issues, the committee will be reviewing the documentation
39 compiled by the staff and commenting on DSA's emergency plan. Ms. Koplin noted the
40 committee's next meeting will coincide with the Disaster Resistant California conference
41 in Sacramento in early May, unless an earlier meeting is warranted.

42
43 Mr. Dan Levernier reported that Mr. Ferrara indicated the main body of the DSA
44 emergency plan has been written, and he was working to complete the appendices and
45 annexes. He said the annexes and other sections will be circulated to committee
46 members as soon as they are available.

47
48 Ms. Koplin noted the committee had talked about visiting OES' emergency operations
49 facility, and there was discussion about inviting representatives from Alameda who
50 made a presentation at last year's Disaster Resistant Conference to brief the
51 committee. She suggested it might be helpful to schedule another committee meeting
52 before May for those purposes. Ms. Koplin added that she would stay in close

1 communication with committee members via email.

2

3 Mr. Peterson commented that many local agencies and school districts acquiesce to the
4 Red Cross and allow that organization to take over during emergencies. He asked
5 whether the committee has any contact with the Red Cross and their procedures. Ms.
6 Koplin answered that one of the new committee members represents the Red Cross.
7 She said Red Cross advised their practice is to contact local school districts and
8 coordinate shelter arrangements. She noted the Red Cross uses a checklist to
9 document the condition of the shelter before it is occupied, but Red Cross has no role in
10 ensuring the structural safety of the buildings used as shelters. Ms. Koplin added that
11 the responsibility falls on school districts to determine which facilities are safe for use,
12 and the committee has been talking about pre-evaluation of school structures for this
13 reason.

14

15 Mr. Hall noted the committee had discussed identifying particular buildings that should
16 not be used as shelters and developing a checklist defining the contents of emergency
17 bins. He said there may be existing documents that address both of these issues.

18

19 Mr. Ross commended Ms. Koplin for her leadership in helping DSA and other agencies
20 coordinate their emergency response activities.

21

22 Mr. Shields suggested that the committee invite someone from the Seismic Safety
23 Commission to brief the committee on what has already been done in some of these
24 areas. Ms. Koplin said Mr. Henry Reyes attended the last meeting and provided a
25 report.

26

27 Mr. Shields emphasized the importance of making sure emergency shelter facilities are
28 accessible to people with disabilities.

29

30 Mr. Mike Modugno said the committee was informed that the Red Cross takes the
31 initiative in designating which buildings they want to use for shelters, and they look at
32 features like bathrooms, cooking facilities, and water supplies. He noted attempts to
33 pre-designate structurally safe buildings should be coordinated through the Red Cross.

34

35 Mr. Shallenberger recalled that the committee was initially looking at all types of
36 disasters, but then State Architect Steve Castellanos recommended more of a focus on
37 earthquakes. He asked whether the committee intended to look more broadly. Ms.
38 Koplin stated that the committee is still concentrating on earthquakes because structural
39 safety issues are most urgent for DSA. Mr. Shallenberger noted there are other types
40 of disasters that can compromise structural safety, so the committee should not define
41 its scope too narrowly.

42

43 Mr. Dyson said that based on his experience with school projects in San Diego, he
44 could attest to what the committee had found. He noted the Red Cross reserves the
45 right to use any public school buildings in an emergency, and they look primarily at
46 functionality and resources. However, most school districts are not aware of the roles
47 local school buildings are intended to play in disasters. Mr. Dyson expressed concern
48 about making sure shelter buildings are inspected for structural safety, both before and
49 after disasters.

50

51 Mr. Ross observed that the minutes of the last committee meeting refer to training
52 people to tag buildings. He noted OES used to have a system in place to identify

1 inspectors, provide tagging criteria, and deploy them where needed. In responding to
2 the Loma Prieta earthquake, he said, DSA worked under the auspices of OES. Mr.
3 Ross recommended making sure that program is still in place.

4
5 Mr. Hall commented that Red Cross works individually with each jurisdiction, and there
6 is no consistency statewide.

7
8 Mr. Hall acknowledged that the committee's primary focus has been earthquakes, but
9 he pointed out that the committee also looked at the SEMS system and its emergency
10 response procedures.

11
12 Ms. Koplin suggested correcting the minutes to include the committee's
13 recommendation that DSA staff be proactive in obtaining SEMS training.

14
15 Mr. Levernier clarified that DSA has two contracts with OES, one to develop an
16 emergency plan consistent with other state agencies, and another to train the staff in
17 using the emergency plan, including how to do structural evaluations. He said once the
18 plan is finalized, DSA will have a better idea of the specific people who need to be
19 trained.

20
21 Mr. Kurt Cooknick noted OES revised its safety assessment program a few years ago.
22 He said that program trains architects, engineers, and building officials to conduct post-
23 disaster evaluations of buildings other than public schools. He suggested working with
24 OES to expand the existing program to include DSA staff.

25
26 Ms. Aguayo stated that OES does not have a program to dispatch DSA inspectors to
27 shelter sites prior to occupancy after a disaster, so a pre-evaluation process might help
28 address that need.

29
30 Mr. Ross commented that there seems to be a lack of communication between DSA
31 and OES about who has authority to tag school buildings. He said OES assumed DSA
32 had the authority, but DSA was unable to identify any legal authority. Mr. Peterson
33 noted OES considers school districts to be the local enforcing agency.

34
35 Mr. Bate observed that the committee has a great deal of work to do with Red Cross,
36 and he applauded the inclusion of a Red Cross representative on the committee.

37
38 Mr. Shields asked Ms. Koplin to recap the committee's desired outcomes. Ms. Koplin
39 said the committee's tasks are: 1) to evaluate whether Administrative Order 03-03
40 confers adequate authority on DSA, and if not, clarify DSA's authority to red-tag
41 buildings; 2) assist DSA in developing and adopting the emergency plan; 3) encourage
42 DSA to complete and continue SEMS training for all staff members; and 4) provide
43 guidance and recommendations to increase the safety of school buildings used as
44 shelters.

45
46 Mr. Shields drew attention to the staff's list of follow-up items. He recommended that
47 the committee review and update the list.

48
49 Mr. Shallenberger noted the committee appears to be focusing on DSA's response,
50 while Mr. Cooknick was describing how OES works with professional organizations to
51 handle post-disaster inspections. He said that by the time professional engineers were
52 notified and deployed in response to the Loma Prieta earthquake, shelters had already

1 been identified and set up. He suggested that DSA consider asking OES to include
2 public schools in their post-disaster inspection activities, unless DSA can mobilize
3 faster.

4
5 Mr. Chris Wills commented that although there is a widespread public perception that
6 schools are safe, one of the goals of DSA's emergency plan should be to ensure that
7 school buildings used as shelters are structurally safe.

8
9 Ms. Lisa Sakamoto described how the State Fire Marshal works with local jurisdictions
10 after a disaster.

11
12 Ms. Koplin noted the committee plans to invite local fire and police representatives to
13 engage in a discussion about their perceived roles and responsibilities.

14
15 Mr. Hall recommended that the committee place high priority on identifying specific
16 school buildings that should not be used as shelters. Mr. Ross said DSA compiled a list
17 of pre-1976 non-wood-frame buildings and made that information available to all school
18 districts. He suggested finding that document. Mr. Hall noted the information should
19 probably be conveyed to Red Cross.

20
21 **Mr. Hall made a motion, seconded by Mr. Bate, to accept the report of the Safety**
22 **and Emergency Response Committee as presented. Without objection, the**
23 **motion was approved.**

24
25 Mr. Shields thanked Ms. Koplin for her report.

26
27 Mr. Shields introduced and welcomed Ms. *, staff consultant to Assemblywoman
28 Goldberg. Ms. Carol Bradley, ADA coordinator, *, introduced herself.

29
30 **State Architect's Report**

31 Mr. Shields invited Mr. Conrad to update the Board on DSA's recent activities.

32
33 Mr. Conrad reported that DSA's major emphasis is on acquiring the staff necessary to
34 handle DSA's increasing workload and finding space to house the staff.

35
36 With regard to the *Williams* lawsuit, pertaining to basic health and safety repairs to
37 schools, Mr. Conrad said DSA has been attending State Allocation Board
38 Implementation Committee meetings and participating in the process. He added that
39 DSA is not yet sure how many projects will be involved.

40
41 Mr. Shields asked whether the DSA Website will provide links for stakeholders
42 interested in further information. He said he thought this issue had been discussed by
43 the Policies and Procedures Committee. Mr. Conrad responded that the Website
44 already has links to OPSC and other pertinent resources. He noted there will be little
45 change until OPSC finalizes the necessary regulations.

46
47 Ms. Georgis said she recalled the committee discussing the idea of DSA playing a
48 helpful role in posting updates for stakeholders on regulations and other resources.

49
50 Mr. Conrad noted DSA is one of three agencies participating in a Policy Executive
51 Committee that includes the deputy director for the Real Estate Services Division and
52 the chief deputy director of the Department of General Services. He said the purpose

1 of the committee is to develop and encourage implementation of DGS policies. To that
2 end, the Policy Executive Committee spearheaded the Excellence in Public Buildings
3 Initiative and the establishment of various charter teams to encourage commissioning
4 and excellence in design.

5
6 Mr. Shields asked if DSA had items for the Policy Executive Committee that might be of
7 interest to the Board. Mr. Conrad said the Governor's new executive order on
8 sustainability defines a key role for DSA, so the PEC will be looking at a variety of
9 energy efficiency and sustainability programs for state buildings. He offered to provide
10 a more detailed report on the executive order at the next meeting and its implications for
11 DSA.

12
13 Mr. Conrad reported that DSA's Environmentally Preferable Products (EPP) database
14 project is still underway, and DSA is researching the statutory authority for the program
15 and its limitations. Once those issues are clarified, the project will move forward.

16
17 Mr. Conrad said DSA will provide a legislative update at the next meeting on bills that
18 may be of interest.

19
20 Ms. Gonos asked if DSA would be proposing any new legislation this year, and Mr.
21 Conrad responded that he did not believe there would be any DSA bills.

22
23 Mr. Thomas Shih noted the Building Standards Commission would be meeting on
24 January 19 to discuss building code issues, and he asked Mr. Conrad to comment. Mr.
25 Conrad said DSA will reiterate its position that the International Building Code should be
26 adopted as California's next model code.

27
28 Mr. Charles Higuera asked about the status of legislation to remove community
29 colleges from the auspices of the Field Act. Mr. Conrad said representatives from DSA,
30 DGS, the Community Colleges Chancellor's Office, and community college districts will
31 be meeting on January 21 to discuss the concerns that led to AB 3010. He noted three
32 task force meetings are scheduled over the next four weeks, and the anticipated
33 outcome is a proposal to address the facility needs of community colleges over the next
34 five to ten years.

35
36 Mr. Shields asked if it would be helpful for the Board to establish a committee to
37 address these issues over the next few months. Mr. Conrad welcomed committee
38 assistance from the Board. He suggested formulating the committee's charge after the
39 task force meetings.

40
41 Mr. Shallenberger asked whether there were any plans to appoint a permanent state
42 architect. Mr. Conrad answered that he had not been apprised of any plans.

43
44 Mr. Higuera noted there had been past discussions about the need to provide
45 adequate staffing for Board committees, and he asked if those issues had been
46 resolved. Mr. Conrad said staffing shortages throughout DSA affect staffing for Board
47 committees. He noted a technical staff person has been identified for each committee,
48 but there is still a need for additional clerical support. Mr. Conrad confirmed his
49 commitment to providing committee support.

50
51 Mr. Shields thanked Mr. Conrad for his update.

1 **Excellence in Public Buildings Committee Meeting Report**

2 **November 5, 2004**

3 Committee Chair Charles Higuera drew attention to the report of the November 5
4 meeting under Tab 4 of the meeting packet. He said the November 5 meeting was the
5 second meeting focusing on how to enlist the support of other parties for excellence in
6 public buildings. The committee recognized that the concept of "excellence" has
7 different meanings to different people, so the committee agreed its first goal is to make
8 excellence an accessible and well understood concept.

9
10 Mr. Peterson said he noticed a number of committee members were absent, and he
11 asked if there was a quorum. Ms. Aguayo clarified that the group met as a committee of
12 the whole because there was no quorum. Mr. Higuera noted the committee took no
13 formal action at the November 5 meeting.

14
15 Mr. Higuera reported that the committee's discussions with Ms. Kathi Littman, HNTB
16 Architecture, and Mr. Ted Osborn, an architect, were very productive. He noted the
17 committee defined a framework for presenting information to school district. The
18 committee identified five key points: 1) time to plan; 2) student success, including
19 buildings conducive to learning, healthy and comfortable environment, and universal
20 design; 3) creating "legacy" buildings that engender pride and support their
21 communities; 4) cost efficiency, with a subcategory of lowering operating and
22 maintenance costs over time; and 5) lessons learned.

23
24 Mr. Higuera said the committee's intent is not to publish extensive how-to information;
25 rather, the goal is to influence key decision-makers to incorporate and promote
26 excellence. The committee decided to start the effort by focusing first on providing
27 information for school board members, then to school business officials and facility
28 directors, and then to planners and front-line staff.

29
30 (Gap in recording between Tape 1, Side 2, and Tape 2, Side 1 - missing report from
31 CASH Conference Workshop Ad Hoc Committee, and lunch break.)

32
33 At 12:00 noon, the DSA Advisory Board recessed for lunch. Mr. Shields reconvened
34 the meeting at 1:00 p.m.

35
36 **Executive Director's Report**

37 Executive Director Mary Ann Aguayo drew attention to the Budget Letter under Tab 6 of
38 the meeting packet. She noted the letter rescinds the previous restriction on meeting
39 more than once a year, but all state advisory bodies are asked to exercise fiscal
40 prudence in limiting the number of their meetings to only those necessary.

41
42 Mr. Shields urged members to meet when appropriate, but to make sure committee
43 meetings are productive and efficient. He noted issues regarding staff support will be
44 addressed with DSA.

45
46 Ms. Aguayo referred to the updated information in the meeting packet about approved
47 rental car companies and their maximum rates.

48
49 Ms. Aguayo encouraged participants to visit the Advisory Board's Web page. She
50 noted all outside communication to Board members will be channeled through the staff.
51 She provided a new email address for the DSA Advisory Board, dsaab@dgs.ca.gov,
52 and she asked Board members to begin using the new address.

1
2 Ms. Aguayo said she was asked at the October quarterly meeting about the staff's
3 responsibilities for support duties. She presented an organizational chart depicting staff
4 duties and a list of technical staff people to support each committee.
5

6 Mr. Conrad reported that the Sustainable Building Task Force met the previous week in
7 response to the Governor's recent executive order regarding sustainability. Under the
8 terms of the order, DSA and the Advisory Board have been charged with two specific
9 activities. First, by December 31, 2005, DSA, in consultation with OPSC, the California
10 Energy Commission, and other agencies, will develop technical resources and
11 guidelines for schools. Second, until then, DSA is to use best efforts to enable schools
12 to design and build energy- and resource-efficient schools that enhance student
13 performance. Mr. Conrad said the staff will be planning how to move forward with these
14 tasks.
15

16 Mr. Shields suggested referring this matter to the EIPB Committee, and Mr. Conrad
17 agreed that sustainability and energy efficiency fell within that committee's charge.
18

19 Mr. Shields thanked Ms. Aguayo and Mr. Conrad for their reports.
20

21 Mr. Shields asked the staff to continue publishing line numbers on all sets of Board and
22 committee minutes.
23

24 **Universal Design Committee**

25 Mr. Shields informed Board members that Mr. Peterson plans to make a
26 recommendation at the next UDC meeting to abolish the task group on playgrounds
27 because DSA has no formal process for reviewing playgrounds. He welcomed
28 comments on this issue.
29

30 Mr. Aaron Noble said the play area task group was established originally to investigate
31 complaints regarding path-of-travel surfaces in Bay Area playgrounds, particularly
32 engineered wood fiber surfaces for accessible routes to play structures. He clarified
33 that DSA does review the path of travel to playgrounds as part of the accessibility
34 review. Mr. Noble noted the task group met once to identify issues, but no in-depth
35 discussions or analyses have taken place.
36

37 Mr. Noble advised that some complaints about engineered wood fiber surfaces appear
38 to be valid, and there are a number of lawsuits involving this issue. He said the
39 previous state architect believed the use of engineered wood fiber warranted further
40 investigation.
41

42 Mr. Peterson agreed with Mr. Noble's description of the issue. He noted the subject has
43 been discussed by the committee for over a year now, and there have been
44 presentations on the subject to both the Board and the UDC. Mr. Peterson said
45 manufacturers submitted a lot of product data, and the committee proposed defining the
46 path of travel as a firm, stable material that does not require daily maintenance.
47 He noted the committee went on to look at play equipment, transfer areas, and other
48 path-of-travel issues.
49

50 Mr. Peterson said the committee learned that play equipment itself is exempt from DSA
51 review. The committee questioned DSA's ability to regulate installation and
52 maintenance of play areas, and there were considerable differences of opinion. Mr.

Peterson noted the committee felt its best end product was the recommendation for a firm, stable, easy-to-maintain surface.

Mr. Michael Mankin agreed with Mr. Peterson's comments. He noted that while DSA conducts accessibility reviews based on objective criteria, there are subjective accessibility issues that fall under the architect's responsibility. He added that the best solution would be to develop appropriate code changes clarifying California's accessibility requirements.

There were no objections to the committee's recommendation.

Seismic Safety in California's Schools

Mr. Henry Reyes reported that the Seismic Safety Commission approved the report on school safety at its December meeting. He said the report was done in response to concerns about the seismic safety of California's schools, especially after the collapse of a private school in Italy after a recent earthquake and damage to an older public school in the San Simeon earthquake.

Mr. Reyes noted the Commission's ad hoc committee met six times and received testimony from DSA and building officials from seven different jurisdictions. Committee members questioned the guest speakers about applicable school seismic safety requirements and enforcement programs. The committee also received input from the Secretary of Education's office, the State Superintendent's office, representatives of private school organizations, and the Western Association of Schools and Colleges accreditation agency.

Mr. Reyes stated that the committee's goal was to examine existing policies and provide recommendations for additional legislation that might be required to protect California school children. He noted the committee was also interested in helping parents evaluate earthquake risks posed by public, private, and charter schools. The committee looked at new construction, existing buildings of different ages, and building contents.

Mr. Reyes drew attention to the executive summary of the report and the key findings. He noted the report provides a statistical breakdown of the different types of schools and their enrollment.

Mr. Reyes said California has passed laws regulating seismic safety in public and private schools, but charter schools are not subject to these requirements unless they receive public funds. The report concludes that there are substantial differences in the standards applicable to public, private, and charter schools, and that even older public schools, or those built pre-1978, are potentially unsafe.

Mr. Reyes reviewed the recommendations from the report:

- 1) Complete the rating and evaluation of the 7,500 buildings identified as potentially at risk by DSA in response to AB 300 and disseminate information on individual building ratings to interested parties, including parents.
- 2) Modify the Private Schools Building Safety Act and Charter School Act to clarify seismic safety provisions.
- 3) Provide education and training for private and charter schools to help them understand seismic safety requirements.
- 4) Explore options for funding the seismic upgrades of schools identified as hazardous under AB 300 and to support efforts of private schools to improve seismic safety.

- 1 5) Evaluate types of potentially hazardous elements that are not anchored or braced
2 and develop mitigation guidelines.
3 6) Regulate anchoring and bracing of contents, with enforcement by local fire
4 departments as part of annual fire inspections of schools.
5

6 Mr. Clinchy asked if the recommendations apply to community colleges. Mr. Reyes said
7 the committee limited its investigation to K-12 schools. He added that the Field Act
8 applies to community colleges as well as K-12 schools.
9

10 Mr. Bate observed that Recommendation 4 encourages support to private schools in
11 improving seismic safety, but it does not mention charter schools. Mr. Reyes clarified
12 that charter schools either come under state jurisdiction, like public schools, or they fall
13 under local jurisdiction, like private schools.
14

15 Mr. Bate expressed support for Recommendation 6 and making local fire departments
16 responsible for enforcement. He cautioned that a great deal of education will need to
17 be provided to help local jurisdictions understand their responsibilities. Mr. Reyes noted
18 that DSA and OES have voluntary guidelines that will be helpful in that process.
19

20 Mr. Hall expressed concern about possible resistance from fire authorities. He noted
21 the additional responsibility might be viewed as another unfunded state mandate. Mr.
22 Reyes said there are two fire chiefs on the Seismic Safety Commission, and both
23 indicated that the annual inspections would not be difficult for local fire authorities to
24 implement.
25

26 Mr. Shields thanked Mr. Reyes for his report.
27

28 **Informational Items**

29 Mr. Shields drew attention to the informational items under Tab 9 of the meeting packet.
30 He noted the materials include updated rosters and travel reimbursement information.
31

32 Mr. Shields said the Policies and Procedures Committee will be addressing the issue of
33 Board members' terms and developing recommendations for a rational turnover
34 process. He noted all Board members are currently facing the same expiration dates,
35 so it would be prudent to provide a mechanism to ensure some continuity.
36

37 **Schedule Upcoming Committee and Board Meetings**

38 DSA Advisory Board members agreed to the following schedule of meetings:

- 39 • Inspectors Committee, February 10, 10:00 a.m., San Diego
- 40 • Building Standards Committee, February 17, 2005
- 41 • Universal Design Committee task groups, February 24, 2005
- 42 • Universal Design Committee, February 25, 2005
- 43 • Excellence in Public Buildings Committee, March 11, 2005, Sacramento
- 44 • DSA Advisory Board Quarterly Meeting, April 14, 2005
- 45 • Safety and Emergency Response Committee: to be determined
46

47 Ms. Aguayo expressed concern about the transcribing workload resulting from three
48 meetings in February. Mr. Shields suggested that the staff consider taking handwritten
49 notes for meetings other than the UDC.
50

51 **AC M-1 Zero Water Consumption Urinal Appeal**

1 Mr. Shields asked newcomers to introduce themselves. Mr. Thomas Pate, California
2 Urban Water Conservation Council; Mr. Robert Sayner, architect; Mr. Dan Burgoyne,
3 Department of General Services; and Mr. Greg Seahart, Thomas Properties Group,
4 took turns introducing themselves.

5
6 Mr. Shields suggested that Mr. Shih, Appeal Committee Chair, provide Board members
7 with a brief summary of the issues. After that, he noted the appellant will have 20
8 minutes to make a presentation, followed by questions from Board members, and then
9 a decision will be made.

10
11 Mr. Shih referred to the materials under Tab 10 of the meeting packet and identified the
12 members of the Appeal Committee. He said the Appeal Committee met twice, on
13 August 24 and November 3, 2004. Mr. Shih noted the California Pipe Trades Council
14 objected to the DSA's issuance of Acceptance Criteria AC M-1, allowing waterless
15 urinals, based on health concerns. The appellant also pointed out that IAPMO's
16 Uniform Mechanical Code prohibits use of these fixtures. The appellant argued that
17 DSA did not follow proper procedures in issuing acceptance criteria for this alternate
18 material, which is prohibited by code.

19
20 Mr. Shih reported that fixture manufacturers explained why waterless urinal fixtures
21 have been approved by many jurisdictions in the U.S. In fact, they stated that Pima
22 County, Arizona, requires waterless fixtures for urinal replacement projects. The
23 manufacturers also provided testimony from experts who contend that waterless urinal
24 fixtures are not a health issue.

25
26 Mr. Shih noted the City of Los Angeles installed waterless fixtures in its Building
27 Department, and staff people came to testify as to odor issues. On the other hand, a
28 person who installs fixtures in Sacramento reported never having any problems.

29
30 Mr. Shih said that when the Appeal Committee met in November, similar arguments
31 were heard. Mr. Howard "Chip" Smith provided a packet of written materials and
32 reviewed the appeal issue by issue, explaining DSA's reasons for issuing acceptance
33 criteria. Mr. Shih noted committee members saw sample listing sheets displaying the
34 IAPMO seal that listed these fixtures.

35
36 Mr. Shih reported that after hearing the presentations and evaluating the evidence, the
37 Appeal Committee voted 6 - 0 to deny the appeal.

38
39 Mr. Shields reminded Board members that the Board's policies and procedures indicate
40 that the Board's role is not to decide whether waterless urinals should be allowed, but to
41 determine as a policy whether DSA's issuance of acceptance criteria was a reasonable
42 thing to do, from the perspective of DSA's stakeholders. He urged the Board to focus
43 on whether the Appeal Committee acted appropriately in arriving at their decision. He
44 noted possible actions include affirming the committee's decision, reversing it,
45 amending it, or remanding it for further study.

46
47 Mr. Shields clarified that the DSA Advisory Board was not acting in any kind of legal
48 capacity. He noted the Board's role is limited to offering advice to the State Architect.

49
50 Mr. Richard Drury, representing the California State Pipe Trades Council, appellant,
51 requested that the DSA Advisory Board reverse the decision of the Appeal Committee
52 and reject Acceptance Criteria M-1, which allows the use of non-flush urinals in state-

1 owned buildings and schools.

2
3 Mr. Drury cited five reasons for reversing the decision:

4 1) Non-flush urinals violate several provisions of the California Plumbing Code.

5 2) Non-flush urinals are not equivalent to urinals allowed by the code.

6 3) Non-flush urinals are prohibited by the Health and Safety Code.

7 4) DSA did not follow proper procedures under the Administrative Procedures Act in
8 adopting AC M-1.

9 5) There was no process under the California Environmental Quality Act (CEQA) for
10 analyzing possible adverse environmental impacts from non-flush urinals and
11 determining appropriate mitigation measures.

12
13 At the very least, Mr. Drury requested that an environmental impact report be done
14 before allowing non-flush urinals in state buildings and schools in California.

15
16 Mr. Drury pointed out that the California Pipe Trades Council has a long history of
17 supporting water conservation in many forms, including low-flow toilets, dual-flush
18 toilets, water recycling efforts, desalinization efforts, gray water systems, xeriscaping,
19 and encouraging reductions in water use. However, the appellant also believes water
20 conservation should never sacrifice public health. Mr. Drury said non-flush urinals
21 compromise public health in several ways.

22
23 Mr. Drury explained that California adopts the Uniform Plumbing Code, and all
24 jurisdictions are required to comply, with only limited deviations. One type of deviation
25 is alternate materials, as in this case. In order to qualify as a deviation, alternate
26 materials have to satisfy three requirements: 1) they must comply with the code; 2) they
27 must comply with the intent of the code; and 3) they have to be at least equivalent to
28 materials allowed by the code. Mr. Drury said IAPMO has considered non-flush urinals
29 in every code adoption cycle since 1993, and their use has been rejected each time,
30 most recently on June 30, 2004. IAPMO's reason was based on health and safety,
31 finding that non-flush urinals do not allow wall washing between every use, contrary to
32 what the code requires. Mr. Drury pointed out that this is why California's Plumbing
33 Code expressly prohibits non-flush urinals.

34
35 Mr. Drury reviewed and explained applicable code requirements. He showed a sample
36 trap from a non-flush urinal and pointed out its similarity to a Bell trap, a system not
37 allowed by code because of its tendency to clog. He said the non-flush urinal traps
38 have to be physically removed and cleared every one to three months, so costs of
39 maintaining the fixtures can be quite high.

40
41 Mr. Drury drew attention to the official interpretation letter from IAPMO concluding that
42 non-flush urinals violate the Uniform Plumbing Code. He emphasized the need to
43 require effective traps and sewer systems to protect the public from sewage-borne
44 diseases like cholera, dysentery, and tuberculosis. He noted non-flush urinals allow
45 harmful sewer gases and bacteria to be released, endangering the public. In addition,
46 unscrupulous landlords can remove the trap, unbeknownst to tenants, and exacerbate
47 these problems.

48
49 Mr. Drury stated that research shows that 37 percent of non-flush urinal users report
50 uncontrollable odor problems. He expressed his opinion that a 37 percent failure rate
51 was unacceptable for any bathroom fixture. Mr. Drury noted the City of Los Angeles
52 removed non-flush urinals installed as part of a pilot program due to the high volume of

1 odor complaints. He said similar results were experienced by the New York Department
2 of Buildings, Seattle Public Utilities District, Oakland International Airport, University of
3 Washington, and University of California at San Francisco. In order to find out why odor
4 problems were so prevalent, the IAPMO testing lab conducted studies that showed that
5 the blue seal fluid is sucked out through negative pressure, leaving no protection
6 against odor.

7
8 Mr. Drury explained why experts believe the lack of wall washing poses a risk to public
9 health. He said that for these reasons, the appellant contends that non-flush urinals
10 should be prohibited because they violate code, are not equivalent to code-approved
11 materials, do not provide a wall washing system, and endanger public health.

12
13 Mr. Drury stated that DSA did not follow proper procedures in issuing AC M-1. He
14 reviewed the public notice and comment process required by the Administrative
15 Procedures Act. He recommended referring this issue back to the agency for a full
16 public process.

17
18 Mr. Drury noted CEQA requires an environmental review for all government actions that
19 could reasonably produce adverse impacts. He expressed his opinion that an EIR
20 process would be very beneficial in this case because it would analyze the product,
21 determine what environmental risks are posed, and identify ways of reducing risks. Mr.
22 Drury said that although manufacturer representatives claim that AC M-1 is not a
23 “project” within the meaning of CEQA, courts have required EIR’s for things like double-
24 paned glass, plastic pipe, and new formulations of house paint.

25
26 Mr. Drury requested that the Board issue written findings for whatever decision it
27 makes. He offered to answer questions from Board members.

28
29 Mr. Shields invited comments from non-Board members.

30
31 Mr. Jay Troger, representing the manufacturers, said he disagreed with the appellant’s
32 contentions.

33
34 Mr. Shields drew attention to a couple salient points from the Appeal Committee
35 meeting transcripts. First, he noted, AC M-1 is actually a fact sheet DSA issued to
36 provide consistency in code interpretations between various DSA offices. He said the
37 question for the Board is whether DSA’s action was reasonable. He also emphasized
38 that the DSA Advisory Board’s role is advisory only, and DSA can either accept or reject
39 the Board’s recommendation.

40
41 Mr. Hall observed that the transcript references to “Ideal H” should be “IDLH,” an
42 acronym meaning “immediate danger to life and health.”

43
44 Mr. Shields welcomed questions from Board members.

45
46 Mr. Ross asked the staff to comment on Mr. Drury’s allegation that waterless urinals are
47 prohibited by code. Mr. Howard “Chip” Smith explained that DSA’s position is that the
48 Plumbing Code simply does not address this type of fixture. He said the staff reviewed
49 the applicable provisions and determined that the Plumbing Code does not expressly
50 prohibit these fixtures. In fact, he noted, IAPMO offers classified listings for these
51 devices and other products not recognized by the UPC. Mr. Smith clarified that non-
52 flush urinals are just not recognized by the code.

1
2 Mr. Hall asked if DSA normally gets into details of health issues in applying code
3 requirements to plumbing fixture installations. Mr. Chip Smith responded that DSA
4 reviews and accepts devices as part of enforcing Title 24 and the Plumbing Code, with
5 its product listing program.
6

7 Mr. Shih asked how many school districts were using waterless urinals and whether the
8 staff was aware of any problems. Mr. Chip Smith said that between August and
9 November, the staff solicited input from school districts in California. He read excerpts
10 from some of the responses. Mr. Smith observed that some reported no problems,
11 others expressed support for the fixtures, and a few were dissatisfied. Based on this
12 variety of experience, he noted, the staff concluded that there was no significant
13 evidence alerting DSA to the existence of a possible problem.
14

15 Mr. Chip Smith reported that DSA staff also contacted the Department of Health
16 Services to find out if they had any records of health problems, but none were found.
17

18 Mr. Ross observed that it was not up to DSA to judge health issues, so the only relevant
19 concerns were maintenance and odor. He said that if waterless urinal fixtures are not
20 illegal, and if they do not cause health problems, the marketplace will determine how
21 much they will be used.
22

23 Mr. Hall commented that he viewed the key issue as whether DSA has the authority to
24 accept waterless urinals as an alternate material under the Plumbing Code. He agreed
25 that the health issue was not within DSA's purview.
26

27 Mr. Shields noted that inspectors are sometimes caught in the middle, with some
28 allowing waterless fixtures and others reluctant to approve something that might be
29 rejected in the field.
30

31 Mr. Higuera said the appeal committee received a huge amount of information on this
32 issue. He observed that the issues fall into three main categories: environmental,
33 procedural and legal, and public health. He stated that his biggest concern was proper
34 maintenance, and he asked if DSA adequately considered that impact. Mr. Higuera
35 added that he understood DSA's practice was to rely on documented evidence rather
36 than anecdotal reports. Mr. Chip Smith responded that the initial issue before DSA was
37 simply applying Title 24 provisions accurately and appropriately. He said the staff
38 worked diligently to try to find records to substantiate health concerns. After looking at
39 other states and pilot programs, the staff found no material evidence documenting
40 problems.
41

42 Mr. Bate stated that other model plumbing codes allow waterless fixtures, and he
43 recommended taking this into account. Mr. Shields agreed. He noted the model state
44 adopted by California appears to be ambiguous on this issue. He asked whether DSA
45 will seek a code change in the future to clarify the issue. Mr. Chip Smith stated that
46 DSA has experienced no problems with AC M-1 other than this appeal.
47

48 Mr. Drury noted IAPMO is taking steps to clarify the situation. He said IAPMO took
49 testimony from manufacturers and voted 28 - 2 last June to expressly prohibit non-flush
50 urinals. He added that public health is the primary reason for the prohibition. Mr. Drury
51 expressed his opinion that there is no longer any ambiguity in how the code should be
52 interpreted. He noted in this situation, approval of an alternate material is inappropriate

1 and illegal.
2
3 Mr. Drury cautioned that allowing waterless urinals will open the floodgates for
4 manufacturers of other rejected products to attempt to make end runs around the code
5 to get their products approved.
6
7 Mr. Shields asked why the code does not expressly prohibit waterless urinal fixtures.
8 Mr. Drury pointed out that Section 406 states that “urinals that do not flush” are
9 prohibited. Mr. Shields said he still found some ambiguity; for example, he noted, the
10 meaning of “discharge” could be interpreted as either a urinary discharge or a flush
11 valve discharge.
12
13 Mr. Chip Smith stated that DSA interpreted “discharge” to mean a flush discharge. He
14 noted the code does not specifically say there must be a “discharge.” He said the staff
15 believes IAPMO’s code program provides for acceptance of the devices. Mr. Shields
16 pointed out the need for clarification.
17
18 Mr. Ross said he found no reason to prohibit the fixtures unless there is a documented
19 health concern. He reiterated his point that the marketplace will take care of whether
20 the fixtures are used in the future.
21
22 Mr. Modugno noted this whole issue came up because architects and engineers were
23 submitting plans to DSA that called for waterless fixtures, DSA issued AC M-1, and then
24 there was the appeal.
25
26 Mr. Shields proposed polling individual members. Board members unanimously
27 affirmed DSA’s decision. Mr. Shields informed the appellant that written findings would
28 be issued reflecting this ruling.
29
30 **New Business**
31 Mr. Shields said Mr. Bate provided copies of some presentation materials on school
32 construction. He encouraged other Board members to share information and ideas for
33 presentations at future meetings.
34
35 **Good of the Meeting**
36 There were no other items brought to the attention of the DSA Advisory Board.
37
38 **Public Comments**
39 There were no members of the public who wished to address the DSA Advisory Board.
40
41 **Adjournment**
42 There being no further business, Mr. Ross made a motion, seconded by Mr. Dyson, that
43 the meeting be adjourned. The meeting was adjourned at 3:30 p.m.